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November 3, 2022

VIA ECF

The Honorable Denise L. Cote
United States District Court Judge
Southern District of New York
500 Pearl Street, Room 1910
New York, New York 10007

In Re: Acetaminophen ASD/ADHD Products Liability Litig., 1:22-md-3043 (DLC)

Retailer Defendants' Joint Letter Regarding Defendants' Interim Leadership

This Document Relates To: All Actions

Dear Judge Cote,

We write on behalf of Defendants Costco Wholesale Corporation, CVS Pharmacy, Inc., Dollar General Corporation, Dollar Tree, Inc., Family Dollar, Inc., Rite Aid Corporation, Safeway Inc., Target Corporation, The Kroger Co., Walgreen Co., and Walmart Inc. (collectively, "Retailer Defendants") regarding the appointment of lead and liaison counsel for the defendants, as requested by the Court in the October 24, 2022 Order on Pre-Conference Submissions (DE 19, p. 5).

The Retailer Defendants agree this litigation would proceed most efficiently through the appointment of a defense leadership structure. However, the Retailer Defendants submit that the Court need only establish a Retailer Liaison Committee for now as the contours of this MDL may differ based on the outcome of the pending motions to dismiss in the matters of *Hatfield v. Wal-Mart Stores, Inc.*, No. 1:22-cv-09011 (S.D.N.Y.) and *Roberts v. Wal-Mart Stores, Inc.*, No. 1:22-cv-09012 (S.D.N.Y.) and the addition of other defendants, namely manufacturers of various acetaminophen products, which plaintiffs advised they will name in newly filed actions.¹ Therefore, until the motions are decided and all anticipated defendants are added to the litigation, establishing a Retailer Defendant Liaison Committee—while reserving the right to amend and expand defendants' leadership structure to include lead counsel and additional liaison counsel in the near future—will most effectively, efficiently, and fairly represent the defendants at this time.

¹ As of the date of this letter, it is the Retailer Defendants' understanding that only one manufacturer has been named in one case, which has not yet been transferred to the MDL. Whether Plaintiffs intend to bring additional tiers of the supply chain into the litigation, such as wholesalers or distributors, is unknown at this point.

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Counsel from the law firms Barnes & Thornburg,² King & Spalding,³ and Arnold & Porter⁴ have indicated an interest in participating in the Retailer Defendant Liaison Committee. Pursuant to the Court's order at DE 19, the Retailer Defendants intend to submit applications for appointment of members of the proposed Retailer Defendant Liaison Committee on or before November 14, 2022. These attorneys will be present at the pretrial conference, and will be available to answer any questions posed by the Court regarding current and future defense leadership in the MDL.

We appreciate the Court's consideration of the Retailer Defendants' position, and look forward to discussing it further with the Court at the upcoming pretrial conference.

Respectfully submitted,

/s/ Kristen L. Richer

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² Barnes & Thornburg is counsel for Costco Wholesale Corporation, CVS Pharmacy, Inc., and Walgreen Co.

³ King & Spalding is counsel for Walmart Inc.

⁴ Arnold & Porter is counsel for Dollar Tree, Inc. and Family Dollar, Inc.